


# COUNTY OF YORK

## MEMORANDUM

**DATE:** September 7, 2006 (BOS Mtg. 9/19/06)

**TO:** York County Planning Commission

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Application No. PD-18-06, Mid-Atlantic Commercial LLC

*NOTE: THIS APPLICATION WAS ORIGINALLY SCHEDULED FOR PUBLIC HEARING AT THE AUGUST 15, 2006 BOARD MEETING. AT THE APPLICANT'S REQUEST, IT WAS PULLED FROM THE AGENDA AND HAS BEEN RE-ADVERTISED FOR PUBLIC HEARING AND DISCUSSION AT THE SEPTEMBER 19, 2006 MEETING.*

### **ISSUE**

This application seeks to amend the York County Zoning Map by reclassifying from R20 (Medium-density Single-family Residential) and GB (General Business) to PD (Planned Development) approximately 12.5 acres of a 24.2-acre site for the purpose of establishing a mixed-used development consisting of 34,500 square feet of commercial space combined with 20 residential condominium units and 49 townhouse units. The property, further identified as Assessor's Parcel Nos. 24-56B and a portion of Parcel No. 24-81B, is located at the southeast quadrant of the intersection of George Washington Memorial Highway (Route 17) and Battle Road (Route 718).

### **DESCRIPTION**

- Property Owners: Virginia Health Services, Inc. (Parcel No. 24-81B) and C.L. Parrish (Parcel No. 24-56B); applicant is the contract purchaser
- Location: Southeast quadrant of the Route 17/Battle Road (Route 718) intersection
- Area: Approximately 12.5 acres of a 24.2-acre site
- Frontage: Approximately 1,300 feet on Route 17, 890 feet on Battle Road; approximately 1,000 feet on Route 17 to be developed
- Utilities: Public water and sewer
- Topography: Flat
- 2025 Land Use Map Designation: General Business along Route 17, Medium Density Residential to the rear
- Zoning Classification: GB – General Business

R20 – Medium-density Single-family Residential  
Route 17 Corridor Overlay District

- Existing Development: A portion of the Virginia Health Services property is currently occupied by the York Convalescent Center
- Surrounding Development:
  - North: York Convalescent Center and Single-family detached homes
  - East: Single-family detached homes
  - South: Patriot Square shopping center
  - West: Vacant commercially-zoned land and vacant, nonconforming single-family detached home across Route 17
- Proposed Development: Mixed-use development consisting of 49 townhouse units, 20 residential condominium units (69 total units) and 34,500 square feet of commercial space (some of which would be located in structures having a combination of commercial and residential space).

**CONSIDERATIONS/CONCLUSIONS**

1. Parcel 24-56B (Parrish property) and the portion of the Virginia Health Services property fronting on Route 17 (10.2 acres total) are zoned GB (General Business) and the remainder of the subject property (2.3 acres) is zoned R20 (Medium-density Single-family Residential). The Comprehensive Plan designates the majority of the site for General Business development, with a small portion (approximately one acre) located in the northeast corner of the site designated for Medium-density Residential development. The Comprehensive Plan also designates the general area surrounding the nearby intersection of Ft. Eustis Boulevard and Route 17 for mixed-use development.
2. Development along Route 17 in the area of the proposed project is predominantly commercial in nature, with the Yorktown Library, Service Master, two gas stations, two fast-food restaurants, and the Patriot Square shopping center all located within a quarter mile of the proposed development. A vacant and nonconforming single-family residence and the entrance road for the Clairmont apartments are located across Route 17 from the proposed development
3. The applicant (in the most recently revised plan) has proposed a mixed-use development consisting of four (4) commercial structures fronting on Route 17 with a 49-unit townhouse area to the rear of the site. Two of the commercial structures (Buildings A and B) would contain 13,050 square feet of commercial space each. Buildings C and D would contain 4,200 square feet of commercial space each, with ten (10) residential flats/condos in each building on the second and third floors. Residential density within the townhouse portion of the site (approximately 8.0 acres) would be 6.1 dwelling units per acre with an overall density of 5.5 du/acre for the entire development. Based on the number of townhouses and

condos/flats proposed, it is estimated that the project would have a resident population of about 135 persons.

4. Principal access to the site would be via a centrally located entrance/exit connecting to Route 17. Internal vehicular/pedestrian circulation would be designed with a central east-west corridor linking the mixed-use commercial and townhouse areas and a secondary north-south access way running the width of the site (parallel to Route 17) and connecting to the adjacent parking area for the Patriot Square shopping center.

The applicant has indicated that Virginia Health Services, Inc. (owner of the York Convalescent Center property) desires to retain the GB-zoned residual property that would be created at the corner of Route 17 and Battle Road. In accordance with Zoning Ordinance Section 24.1-252(b)(4), the two parcels resulting from a subdivision of the Virginia Health Services property would be entitled to a single joint access driveway. However, because the parcel has in excess of 600 feet of frontage on Route 17, a second access could be permitted provided the second access jointly serves both developments (i.e., is interconnected with the internal circulation system of both parcels) and can be justified as needed for vehicular safety reasons. The applicant's concept plan depicts two right-in/right-out driveways with acceptable interconnections between the two parcels.

Staff had initially recommended a joint access connection to Battle Road, primarily to provide a connection to the Library. However, at the Planning Commission public hearing both the applicant and Battle Road residents expressed concerns that the connection could cause problems with cross traffic between Battle Road and the shopping center, as well as disrupting the convalescent center circulation system. Therefore, the proposal was not supported by the Planning Commission and is no longer included as a staff recommendation. However, the applicant has depicted a cross-easement on the development concept plan at the northern end of the internal north/south spine street so that an additional connection to the corner parcel could be made in the future if the property owners desire.

5. The applicant has voluntarily proffered a set of conditions that, if accepted by the Board of Supervisors, would apply to the proposed development. The applicant has proffered to prohibit the following uses that would otherwise be permitted in the GB zoning district, either as a matter of right or with a Special Use Permit.

<b><u>Permitted as a Matter of Right:</u></b>	<b><u>Permitted with a Special Use Permit:</u></b>
Plant Nursery or Greenhouse	Animal Hospital with Outside Runs
Farmer's Market	Video Arcade, Pool Hall, Bingo Parlor
Indoor Theater	Indoor Firing Range
Health Club with Outdoor Facilities	Outdoor Commercial Amusements
Auction House	Convenience Store
Bait, Tackle, Marine Supplies	Lumber Yard/Building Materials
Funeral Home	Storage Shed/Utility Building Sales
Hotel/Motel	Pawn Shop, Tattoo Parlor, Fortune Teller
Drive-through Restaurant	Nightclub
Fast Food Restaurant	Car Wash
Commercial Reception Hall	Gas/Service Station
Small Engine Repair	Auto Repair
Tool, Household Equipment, Lawn & Garden Equipment Sales or Rental	Auto/Light Truck Sales
Boat Sales, Service, Rental	Heavy Truck Sales
Bus Terminal	Farm Equipment Sales/Rental
Taxi/Limousine Service	Manufactured Home Sales
Wholesale Auction	Heliport/Helipad
Contractor's Shop	Towing Service/Auto Storage
	Warehousing
	Wholesale Trade with Outdoor Storage
	Mini-storage Warehouses
	Machine Shop

Notably, the proffers also commit to undergrounding the utilities across the entire Route 17 frontage of the project and to installing all traffic and utility infrastructure improvements necessary to serve the commercial portions of the project.

6. In its report to the Planning Commission, staff expressed concern about the lack of variation in the ridgeline of the commercial and residential buildings. The applicant has addressed this concern by breaking the commercial structures into four separate buildings (rather than two) and by providing additional roofline variation (see Conceptual Plan/Renderings dated August 3, 2006); however, staff continues to believe that similar variations on the townhouse structures are necessary also.

The front 500 feet of the project, including both the commercial and residential components, will be subject to the terms of the Route 17 Corridor Overlay District, which addresses architectural features. The applicant's renderings (and proffer statement regarding exterior materials) demonstrate a commitment to comply

with the Route 17 Corridor Overlay standards. However, I am recommending an approval condition requiring an architectural design for the townhouse units that incorporates variations in roofline treatments to eliminate the continuous ridgeline shown in the applicant's townhouse building elevations.

7. In accordance with the Zoning Ordinance Planned Development standards for open space and recreation areas, planned developments are required to reserve 10% of gross residential land area for recreation areas such as playground/picnic areas, multi-purpose activity fields, and bicycle/pedestrian paths. In this case, the applicant would be required to provide approximately 0.8-acres of land for recreation facilities. According to the applicant's master plan, recreation area and facilities would consist of a gazebo, fitness trail surrounding a wooded turn-around in the center of the townhouse area, walking paths connecting the townhouse area and the mixed-use commercial buildings and a picnic area in the northwest corner of the townhouse area. Additionally, the applicant proposes to construct a recreation/fitness center building on the interior of the circular drive within the townhouse section. This center would be available to the residents of the development and their guests. These open space/recreation space areas and facilities would, in staff's opinion, meet the basic ordinance requirements.
8. One of the overriding goals behind the mixed-use development concept is the creation of special and unique places that stand apart from conventional development. The proposed development does indeed incorporate several design features that set it apart from other developments in the County. These include not just the mixing of residential and commercial uses within a single development and within a single building, but also on-street parallel parking (in addition to surface parking lots), narrow (private) streets, a traffic circle, townhouses with garages, parking areas located underneath buildings, shallow front yard building setbacks, a high degree of pedestrian connectivity, and a relatively compact form. These are features customarily found in mixed-use developments and are consistent, in staff's opinion, with the mixed-use concept as articulated in the Comprehensive Plan. Some of these design elements, because of their uniqueness in the County, will likely require close scrutiny and perhaps modification during detailed site plan review. Overall, however, staff feels that the basic layout and design are acceptable and appropriate for a development of this type.
9. The applicant submitted an initial traffic impact study based on a proposed development of 49 townhouses, 25 condominiums and 24,000 square feet of commercial uses. According to the study, a proposed development of that size could be expected to generate an average of 1,367 daily vehicle trips, including 60 trips in the AM peak hour and 92 trips in the PM peak hour. Most of this traffic – 1,064 trips per day (37 in the AM peak hour and 65 in the PM peak hour) would be generated by the commercial uses. The residential units are estimated to generate approximately 302 average daily trips, including 23 trips in the AM peak hour and 27 trips in the PM peak hour. Based on these traffic forecasts, the study indicates that a right turn lane and taper from northbound Route 17 into the development will be warranted.

The applicant subsequently modified the plans to propose a development of 49 townhouses, 20 condominiums and 34,500 square feet of commercial space. Based on these modifications, staff estimates the proposed development would generate an average of 1,759 daily vehicle trips. Staff does not believe that the development's projected traffic will materially affect delays on Route 17; however, staff has proposed a condition requiring the applicant to revise the traffic impact analysis to account for the change in the mix of residential and commercial space prior to site plan approval. It should be noted that the proposed development will generate less traffic than if the entire property were to be developed in accordance with the existing commercial zoning.

10. In accordance with the planned development regulations, the applicant has submitted a community impact assessment and fiscal impact analysis of the proposed development. The analyses estimate that the development would generate annual revenues of approximately \$399,900 for the County, while the estimated cost of providing County services would be \$212,400, yielding a net fiscal impact of \$187,500 at build-out.

The applicant also provided an analysis comparing the proposed development with a hypothetical by-right development given the existing zoning of the property (four single-family homes and 72,000 square feet of commercial space). According to the analysis, the estimated net fiscal impact of the by-right development at build-out would be \$144,450 (adjusted to account for the new tax rate). Staff agrees that a positive fiscal impact would result from the proposed development, but believes that if the property were developed to its full potential under existing GB and R20 zoning, the net positive fiscal impact would more likely equal, if not exceed, that of the proposed development (e.g., since under the standard rule-of-thumb estimate of 10,000 square feet of commercial space/acre, the potential commercial yield on the subject property would be greater than 72,000 square feet).

In addition to these projections, the applicant has provided an estimate of the net fiscal impact that might be expected if only the townhouse portion of the project were developed. This analysis estimates that at build-out, the 49 townhouse units could be expected to generate a net annual positive fiscal impact of approximately \$97,000. The applicant presented this analysis in response to the concerns expressed by staff about approval of a mixed-use project without any guarantee that the non-residential components would ever be developed.

11. Townhouses and condominium apartments have fewer school-age children per unit than do single-family detached homes. Mixed-use developments in particular tend to be attractive to young professionals and "empty nesters" and less attractive to families with children, which have greater space needs. Staff estimates that the proposed development will increase York County school enrollment by 15-20 students. By comparison, the four single-family detached homes that would be permitted under the existing zoning would be expected to generate 3-4 school-age

children. While some might suggest that any residential development that is allowed to occur in commercially designated areas should be “age-restricted” so as to eliminate school impacts, staff does not recommend this approach. To the contrary, the mixed-use development approach is predicated on having a variety of residential housing types integrated into a pedestrian-oriented community. For that reason, staff believes that placing age-restrictions on all residential units within such developments would not be advisable and, instead, the objective should be to ensure a variety of unit types – including, particularly, some that are located above commercial space, as proposed with this development.

11. This application has presented a dilemma for staff since it proposes a “mixed-use” development (something that the recently updated Comprehensive Plan supports) but does so prior to the establishment of any formal guidelines or policies regarding how mixed-use projects should be designed and analyzed beyond those set forth in the Plan. The process to do this is underway and the Mixed-Use Committee established by the Economic Development Authority has met several times and considered various suggestions about how this development concept should be implemented in York County. Staff has developed a discussion draft of proposed amendments to the basic Planned Development section of the Zoning Ordinance, and the Committee has discussed the draft on several occasions, but has yet to come to consensus on a recommendation.

In the absence of any adopted policies concerning “mixed-use” staff has reviewed this application in the context of the proposals sent to the committee and the Board’s action on the recently approved Reserve planned development on Mooretown Road (even though that was not processed as a “mixed-use” development). In staff’s opinion, one of the most significant issues that must be dealt with in any mixed-use proposal is the amount of commercial area relative to residential area (or units). In its recommendations to the Mixed-Use Committee, staff suggested certain threshold ratios based on an analysis and averaging of the characteristics of two well-regarded mixed-use projects in the Peninsula area – Port Warwick in Newport News and New Town in James City County. Both of these projects were discussed as “good” examples of mixed-use development when the Comprehensive Plan was being developed. While some (including the applicant) have expressed the opinion that each individual mixed-use project will be different and, therefore, any minimum ratios or land use formulas will be too restricting, staff is of the opinion that certain basic thresholds should be established. Accordingly, the following basic standards were recommended to the Mixed-Use Committee:

Minimum amount of commercial floor area:	3,000 s.f. per net acre
Maximum number of residential units: commercial floor area	1 unit per 500 square feet of
Timing of development:	Maximum dwelling unit limitations shall not be exceeded at the

50% and 90% completion thresholds for commercial space.

The Committee has discussed these concepts but nothing has been finalized. Additional options have been prepared by staff for consideration, including the possibility of more flexible standards for smaller mixed-use development proposals (e.g. those smaller than 50 acres in size). It is expected that the Committee will be in a position to report a recommendation to the Economic Development Authority within the next month. The applicant's proposal to construct 34,500 square feet of commercial space meets the proposed 3,000 square feet per net acre standard (11.5 net acres x 3,000), as does the maximum number of dwelling units (34,500 s.f. divided by 500 s.f.= 69). At issue is the timing and sequencing of construction.

The development schedule proposed in Condition No. 3 of proposed Ordinance No. 06-15(R) would ensure that at least some of the proposed commercial development proceeds in conjunction with (rather than subsequent to) the residential components. It should be noted that the applicant objects strenuously to any requirement calling for some commercial space to be constructed before *all* the townhouse units are constructed and indicates that it would make the project economically infeasible. The Planning Commission agreed with the applicant's position and deleted any sequencing requirement from its recommendation.

In support of its position, the applicant has submitted a supplementary document (see attached letter dated August 2, 2006 from Lamont Myers to Mark Carter) setting forth an alternate phasing plan and expressing the opinion that the initial infrastructure improvements it makes to the commercial portion of the site will stimulate interest in and accelerate its actual construction. The applicant has also revised the Proffer statement to reflect this proposal. Note that the phasing plan proposed by the applicant would require one of the commercial-only buildings to be completed before issuance of building permits for the first mixed-use building (commercial w/ 10 residential flats); however, there is no linkage to the townhouse units.

The staff's recommendations are, of course, based on un-adopted guidelines and, ultimately, it will be the Board of Supervisors that determines how best to implement the "mixed-use" concept that everyone had in mind when the Comprehensive Plan was developed. What can be said is that any mixed-use project, at least in the areas identified by the Comprehensive Plan, will introduce a residential component to an area designated for commercial development. In the case of this property, it is likely that it could be years, if ever, that market demand would make it feasible to develop the 12.5 acres entirely for commercial uses. Is 34,500 square feet of commercial space an appropriate amount to accept if done as a mixed-use project? Based on the averages from the above noted projects, staff believes that it would be an appropriate amount.

#### **PLANNING COMMISSION RECOMMENDATION**



The Planning Commission considered this application at its July 12 meeting and, subsequent to conducting a public hearing, voted 5:1 (Mr. Barba dissenting, Ms. Connor absent) to recommend approval. The applicants requested deletion of staff-recommended conditions requiring the access connection to Battle Road and establishment of time frames for the completion of the commercial component of the development. The noted conditions were not included in the resolution adopted by the Commission. The Commission's recommendation could be approved by adopting proposed Ordinance No. 06-15(R) **without** Condition No. 3 (thus making it Ord. No. 06-15(R-1)),

Three citizens spoke in opposition to the application, citing concerns with potentially negative impacts of high-density housing in proximity to single-family detached housing neighborhoods and increases in traffic volumes on Route 17 and Battle Road. The property manager for the adjacent Patriot Square shopping center spoke in favor of the application.

#### **COUNTY ADMINISTRATOR RECOMMENDATION**

Although the subject property is designated General Business in the Comprehensive Plan, it also lies within an area of the Route 17 corridor that the Plan identifies as a possible area for mixed-use development. I believe the proposed mix of townhouses to the rear of the development and condominium/commercial units toward the front of the development would be compatible with surrounding land uses, which consist mainly of commercial uses with single-family detached homes to the rear. The applicant has proffered to preclude uses that would not be compatible with existing commercial uses and the proposed townhouse development. Given its location to the rear of the parcel with limited access options, the R20 portion of the property (approximately 2.3 acres) has limited potential for standard single-family detached residential development.

After giving further consideration to the Battle Road access connection, and hearing concerns voiced at the Planning Commission hearing, I have not included the proposed condition requiring the connection. Regarding the issue of requiring concurrent construction/completion of commercial space and residential units within the development, I believe that some sort of linkage is necessary. This is of special concern given that the majority of the property is currently zoned GB and is designated for general business development in the Comprehensive Plan.

Simply put, a "mixed use" development consists of a combination of residential and commercial structures. In order to be approved as a "mixed use" project there must be some assurance that *both* components will actually be constructed. The Applicant's proposals and the Planning Commission's recommendation leave open the possibility of a residential-only development because there is no requirement that any of the commercial space ever be constructed. In my opinion, there needs to be a requirement that some portion of the commercial space be constructed before completion of 100% of the townhouse units.

As noted above, Condition No. 3 in proposed Ordinance No. 06-15(R) has been developed in consideration of the research associated with the Mixed-Use Committee's work, the applicant's plan revisions showing four (4) rather than two (2) commercial structures, and the actions taken by the Board on the Reserve planned development. This proposal is different than what was originally recommended to the Commission and the proposal in the original proposed Ordinance No. 06-15. Proposed Condition No. 3, as now written, would require the following:

- Prior to issuance of the Building Permit for the 16<sup>th</sup> townhouse unit (30% of total townhouses) construction of one of the mixed-use buildings (4,200 s.f. commercial/10 condos) or one of the exclusively commercial buildings (13,500 s.f. commercial) shall be complete and the building shall be ready for individual commercial tenant fit-out and customization (this represents 12% or 39%, respectively, of the total commercial space);
- Prior to issuance of the Building Permit for the 30<sup>th</sup> townhouse unit (60% of total townhouses) construction of both of the mixed-use buildings (4,200 s.f. commercial/10 condos each) or one of the exclusively commercial buildings (13,500 s.f. commercial) shall be complete and the buildings shall be ready for individual commercial tenant fit-out and customization (this represents 24% or 39%, respectively, of the total commercial space);
- Prior to the issuance of the Building Permit for the 45<sup>th</sup> townhouse unit (90% of total townhouses) construction of both of the mixed-use buildings (4,200 s.f. commercial/10 condos each) and one of the exclusively commercial buildings (13,500 s.f. commercial), or both of the exclusively commercial buildings (13,500 s.f. each), shall be complete and the buildings shall be ready for individual commercial tenant fit-out and customization (this represents 63% or 78%, respectively, of the total commercial space).

For comparison purposes, the sequencing requirements for the recently approved Reserve project were:

- At 50% of the residential Building Permits, at least 28% (11,200 s.f.) of the commercial space would have to be complete;
- At 80% of the residential Building Permits, at least 75% (30,000 s.f.) of the commercial space would have to be complete.

My proposal for the Yorktown Green project would require commercial space construction/completion to begin earlier (at the 30% threshold) and is structured to match the specific building designs and sizes proposed by the applicant. The key premise of my recommendation remains, however, that there should be *some* linkage between the townhouse and commercial space construction sequence.

Based on the considerations and conclusions as noted, I recommend that the Board approve this application through the adoption of proposed Ordinance No. 06-15(R). Please note that the proposed ordinance references the applicant's proffer statement, which

includes a phasing condition (Section 7, page 4). If Ordinance No. 06-15(R) is adopted as I am recommending, the phasing requirements contained in Condition No. 3 would supersede the applicant's phasing proposal (i.e., the more restrictive requirement will control). Conversely, if the Planning Commission's recommendation is adopted (i.e., by deleting Condition No. 3), then the applicant's phasing condition will control.

Please note that, as of the date of this memorandum, an executed copy of the proffer statement has not been received. If it is received by the time of the Board's public hearing, the appropriate date references will need to be inserted into Ordinance No. 06-15(R). If it is not, the application will need to be considered and evaluated as a standard rezoning application *without* proffers.

Carter/3337:AMP

#### Attachments

- Excerpts of unapproved Planning Commission Minutes - July 12, 2006 meeting
- Zoning Map
- Applicant's Development Summary – Revised June 1, 2006
- Community Impact Assessment, March 2006
- Fiscal Impact Assessment, April 2006 and supplements dated July 12, 2006 and August 7, 2006
- Applicant's Zoning Plat – dated March 30, 2006 and revised June 28, 2006
- Master Plan – dated April 26, 2006 and revised July 30, 2006
- Architectural Elevations – Sheets dated June 28 and August 3, 2006
- Letter dated August 2, 2006 from Lamont Myers to Mark Carter
- Proffers – labeled Draft, dated July 24, 2006 and stamped "received" August 3, 2006
- Proposed Ordinance No. 06-15(R)